

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

V.

Defendant.

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3:07-cv-00690

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The Commission and SouthEast Waffles have agreed to this Consent Decree to settle all of the claims involved in this lawsuit.

The Court has reviewed the terms of this Decree in light of the applicable laws and regulations, and hereby approves this Decree. **THEREFORE**, it is hereby **ORDERED**:

I. JURISDICTION

The United States District Court for the Middle District of Tennessee, Nashville Division, has jurisdiction over the parties and subject matter of this lawsuit, and will retain jurisdiction over this Decree for purposes of enforcement and dispute resolution, except that the United States Bankruptcy Court for the Middle District of Tennessee shall have jurisdiction over all matters within its core jurisdiction as defined in 28 U.S.C. § 157(b)(2).

II. DISCLAIMER

Neither the negotiation of nor agreement to this Decree is an admission or acknowledgment by SouthEast Waffles that any of its employees, officers, directors, or agents have violated Title VII.

III. DURATION OF DECREE

This Decree will be binding on the parties to this lawsuit for three years after the date of its entry by the Court. This Decree will expire by its own terms at the end of that period without the necessity of further judicial proceedings or orders of this Court.

IV. INJUNCTIVE RELIEF

SouthEast Waffles, its supervisors, managers, officers, directors, agents, and successors are enjoined from discriminating against employees because of their sex by

subjecting them to sexual harassment, and from discriminating against employees because they have opposed employment discrimination made unlawful by Title VII or participated in an investigation or proceeding under Title VII.

V. INDIVIDUAL REMEDIES

SouthEast Waffles agrees that the Commission may file unsecured claims in its Chapter 11 bankruptcy action totaling \$45,000 for the alleged discriminatees, allocated into three individual amounts as decided by the Commission, and SouthEast Waffles agrees that it will not oppose those unsecured claims in the bankruptcy action.

VI. TRAINING

Within forty-five days after receiving a copy of this Decree entered by the Court, SouthEast Waffles will provide in-person training, lasting at least one hour, for each person who is employed at the Facility concerning unlawful harassment. SouthEast Waffles will provide in-person training, lasting at least two hours, for all supervisors and managers employed at the Facility and who supervise the Facility, concerning their responsibilities when they see or hear unlawful harassment occurring and when complaints about unlawful harassment are received, as well as their responsibilities not to discriminate against employees for opposing unlawful employment practices. Within thirty days after the completion of this training, SouthEast Waffles will submit a report to Carson Owen, EEOC, 1407 Union Ave., Suite 900, Memphis, TN 38104, confirming that this training has occurred.

VII. MODIFICATION OF POLICIES PROHIBITING HARASSMENT

SouthEast Waffles will change each of its policies prohibiting unlawful harassment, and its workplace poster prohibiting unlawful harassment, to contain the

following language:

If you feel you have been harassed by anyone at work, report the harassment to your supervisor. We strongly encourage you to also report the harassment to the hotline, (insert the phone number), to help us make sure that your complaint is dealt with properly. If your supervisor is the harasser, or if your supervisor is not stopping the harassment you reported, then report the harassment to your supervisor's manager, and again we strongly encourage you to also report the harassment to the hotline, (insert the phone number), to help us make sure that your complaint is dealt with properly.

Within forty-five days after receiving a copy of this Decree entered by the Court, each person who is employed at the Facility will be required to read and sign a copy of this policy, and will be given a copy of the policy. Within thirty days after meeting this requirement, SouthEast Waffles will submit a report to Carson Owen at the address indicated above, confirming that this requirement has been met. Thereafter, whenever a new employee is hired at the Facility, he or she will be required to read and sign a copy of this policy, and will be given a copy of the policy.

VIII. CORRECTIVE ACTION

SouthEast Waffles agrees that District Manager Bill Navel will be suspended for two weeks without pay for his handling of the sexual harassment complaints that were brought to his attention concerning John Norman, which the EEOC contends to have been improperly handled. Within forty-five days after SouthEast Waffles receives a copy of this agreement with all signatures on it, SouthEast Waffles will submit documents to Carson Owen, at the address indicated above, confirming that this suspension has occurred.

IX. REPORTING

SouthEast Waffles will submit a report to Carson L. Owen, at the address indicated above, covering the six-month period after the entry of this Decree, and every six-month period thereafter during the duration of this Decree. Each report will describe all complaints received from persons working at the Facility concerning sexual harassment, including the name, home address, home telephone number, and cellular telephone number (if any) of each person who complained, the nature of the complaint, what action, if any, was taken in response to the complaint, and, if no action was taken, an explanation of why no action was taken.

SouthEast Waffles will have up to 30 days after the end of each six month period to submit this report, and the Commission will have up to 30 days after receiving each report to raise any concerns about that report.

X. POSTING OF NOTICE

Within ten days after receiving a copy of this Decree entered by the Court, SouthEast Waffles will post the notice which is attached as Attachment A to this Decree for thirty days in conspicuous places at the Facility where notices to employees are customarily posted. Within sixty days after receiving a copy of this Decree entered by the Court, SouthEast Waffles will send a letter to Carson Owen, at the address indicated above, verifying that this requirement has been met.

XI. ATTORNEY'S FEES AND COSTS

The Commission and SouthEast Waffles will each bear their own attorney's fees and costs incurred in this lawsuit.

SO ORDERED this 11th day of March, 2009.


Aleta A. TRAUGER
U. S. DISTRICT JUDGE

Consented to on behalf of the respective parties:

FOR PLAINTIFF:

RONALD COOPER

General Counsel

JAMES LEE

Deputy General Counsel

GWENDOLYN YOUNG REAMS

Associate General Counsel

s/Faye A. Williams

FAYE A. WILLIAMS

TN Bar No. 11730

Regional Attorney

s/Deidre Smith

DEIDRE SMITH

TN Bar No. 18499

Supervisory Trial Attorney

s/Carson L. Owen

CARSON L. OWEN

TN Bar No 09240

Senior Trial Attorney

EQUAL EMPLOYMENT

OPPPORTUNITY COMMISSION

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Memphis, TN 38104

Telephone: 901-544-0133

FOR DEFENDANT:

s/Charles Yancey

Charles Yancey

Assistant Vice-President for Human Resources

**SOUTHEAST WAFFLES, LLC,
d/b/a WAFFLE HOUSE**

s/Barbara D. Holmes

BARBARA D. HOLMES

TN Bar No. 12121

**HARWELL HOWARD HYNE GABBERT
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315 Deaderick Street, Suite 1800

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Attorneys for Defendant

Attachment A

NOTICE

This Notice is being posted as part of a settlement agreement between SouthEast Waffles, LLC and the U. S. Equal Employment Opportunity Commission (EEOC).

EEOC enforces Title VII of the Civil Rights Act of 1964 (Title VII), which prohibits employment discrimination based on race, color, religion, sex (including sexual harassment), or national origin. Retaliation for complaining about unlawful discrimination is also prohibited by this Federal law. SouthEast Waffles supports this Federal law in all respects. The telephone number for EEOC in Nashville is 736-5820.

A woman who worked at our Dickerson Pike store filed a discrimination charge with EEOC claiming that she had been sexually harassed by a cook on the third shift. EEOC filed a lawsuit against us claiming that this woman and three other women were sexually harassed, and that our managers did not take prompt and effective action to stop the harassment. While we contend that SouthEast Waffles acted appropriately in responding to the claims of sexual harassment, we have determined that settlement of the lawsuit is in the best interests of SouthEast Waffles and its employees. In settlement of the lawsuit we have agreed to allow the EEOC to have claims in our Chapter 11 bankruptcy action for the three women, and we have agreed to report to EEOC for three years on all complaints of sexual harassment made by employees at our Dickerson Pike store.

We have a harassment policy, and all of you have read it, signed it, received training on it, and been provided a copy of the policy. We will not tolerate harassment of anyone in our workplace. It is your responsibility to help us make sure no harassment occurs, and, if it does, that it is reported and stopped.

If you feel you have been harassed by anyone at work, report the harassment to your supervisor. We strongly encourage you to **also** report the harassment to the hotline, (insert phone number), to help us make sure that your complaint is dealt with properly. If your supervisor is the harasser, or if your supervisor is not stopping the harassment you reported, then report the harassment to your supervisor's manager, and, again, we strongly encourage you to **also** report the harassment to the hotline, (insert phone number), to help us make sure that your complaint is dealt with properly.

Charles Yancey
Assistant Vice-President for Human Resources